

## REMARKS

In response to the final Office Action mailed May 2, 2007, the Applicant respectfully submits that the final rejection in the final Office Action was premature and the claims as presented are in condition for allowance. Thus, the Applicant respectfully requests reconsideration, withdrawal of finality and the issuance of a notice of allowability, based on the following remarks and evidence presented in accordance with 37 CFR §116(c).

### Interview Summary

An Interview Summary by the Examiner was filed on October 10, 2007.

The Applicant acknowledges with appreciation the indication by the Examiner in a first telephonic interview granted by the Examiner and conducted on October 3, 2007 where the "Examiner agreed that the finality should be withdrawn" (Interview Summary, item 1, page 2 line 5). Thus, the indication as evidenced in the Interview Summary by the Examiner "that the finality should be withdrawn" provides a showing of good and sufficient reason why the withdrawal of finality of the premature final rejection is necessary and the recent date of the indication is why Applicant's evidence could not have been earlier presented.

The Applicant acknowledges with appreciation the grant of a second telephonic interview with the Examiner, conducted on October 30, 2007. During the second interview, the Examiner agreed to look more closely at how the recitation of "dropping the computer off line" (claim 1, line 14) differs from dropping the line as taught in the applied art. Also, during the second telephonic interview the Examiner agreed to look closely at how the recitation of communicating "via the home plan at the home plan rate" (claim 1, line 15) differs from charging a long distance call to a home phone as taught by the applied art.

During the first interview by the Examiner, Applicant's representative argued that the recitations of claim 1 are directed to a method of making a long distance call by "entering a

long distance or international destination telephone number" (claim 1, line 12) after "receiving an incoming call at a computer . . . with a telephone being called" (claim 1, line 2), then "via the home plan at the home plan rate" (claim 1, lines 15-16) and "invoking an outbound call to the destination number" (claim 1, line 13) where the caller can "communicate with the destination number via the home plan at the home plan rate" (claim 1, lines 15-16), including making a long distance call through a local home plan phone. This is different from the teaching in the reference to Zey, because Zey merely teaches a method of making a local call via a long distance network from a pay phone to another local phone (see Zey, the ABSTRACT and column 3, lines 65 to column 4, line 6). In addition, nothing was cited or found in Peoples that corrects the deficiencies in Zey. Therefore, nothing was cited or found in Zey and Peoples either combined together or taken individually that teaches or suggests each recitation of claim 1. Thus, claim 1 distinguishes over the applied art of record, for at least the reasons stated above and is allowable.

Rejections under 35 U.S.C. § 103 (a)

Claims 1-17 were rejected under 35 U.S.C. § 103 (a) as unpatentable over Zey (US 6,718,029) (hereafter "Zey") in view of Peoples (US 6,134,312) (hereafter "Peoples"). Claims 1-17 are pending and under consideration. The rejections of claims 1-17 are respectfully traversed for the following reasons.

Claim 1 recites "in response to the destination number being answered, dropping the computer off line, thereby enabling the caller to communicate with the destination number" (claim 1, lines 13-15). On page 3 of the Office Action, firstly, this recitation was misquoted as follows: "in response to the destination number being answered, **dropping the line**" (Office Action, page 3, lines 6-8, emphasis added); secondly, it was concluded that the misquoted recitation rendered claim 1 inherently obvious, and thirdly, no rationale was provided tending to show inherency. "In relying upon the theory of inherency, the Examiner

must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied . . . art.' *Ex parte Levy*, 17 USPQ2d 1461 (Bd. Pat. App. & Inter. 1990)" ( see MPEP 2112 (IV), p. 2100-55, Rev. 3, August 2005). Therefore, the burden of proof of inherency has not been met. Thus, for at least the above reasons, claim 1 is allowable.

Claim 1 recites "enabling the caller to communicate with the destination number via the home plan **at the home plan rate**" (claim 1, lines 14-16, emphasis added). Zey discloses allowing "customers to place a long distance call from a phone other than their home phone and bill the call to their home account by providing the calling card number" (Zey, column 1, lines 35-38). In regard to placing a "**long distance or international**" call (claim 1, line 12, emphasis added), nothing was cited in Zey that shows paying for "the destination number . . . at the home plan rate" as recited in claim 1. Instead, impermissible hindsight was relied upon to reach the conclusion of obviousness, in regard to this recitation of claim 1. Thus, for at least this reason, claim 1 is allowable.

On page 3 of the Office Action, it was admitted that "Zey does not specifically teach the use of a 'computer' as recited in claim 1" (Office Action, page 3, line 12). Next it is asserted that "Peoples teaches the use of a microprocessor that controls establishing the connection, as shown in Fig. 3, element 350. . . . Therefore, it would have been obvious . . . to incorporate . . . using a computer, as taught by Peoples" (Office Action, page 3, lines 13-14). However, Peoples discloses "channel 315 will go off-hook . . . to answer the incoming call" (Zey, column 9, lines 48-49), then "controller 300 is ready to accept additional information" (Zey, column 10, lines 1-2). Thus, controller 300, which is composed of micro-processor 350, as taught by Zey remains on line to accept additional information; therefore, on its face, Zey shows a continuing computer operation, which is different than "dropping the computer off line" as recited in claim 1. Nothing was cited or found in Zey and Peoples

either combined together or taken individually that teaches or suggests each recitation included in claim 1. Thus, for all of the above reasons claim 1 is allowable.

Independent claims 10 and 14 recite "disconnecting the processing circuit from the call" and "disconnecting the computer from the call" respectively and "enabling the caller to communicate with the destination number via the home plan at the home plan rate" in a manner similar to claim 1.

Dependent claims 2-9, 11-13 and 14-17 depend from claims 1, 10 and 14 respectively. Thus, claims 2-17 are allowable for the reasons discussed above, in regard to claim 1.

In addition, it was asserted in the Office Action that claim 3 was rejected because it was "obvious and well known in the art" (Office Action, page 4, line 8). The Applicant respectfully traverses this statement and demands that documentary evidence (i.e., either a patent or non-patent reference or an affidavit from the Examiner) be produced in support of the "obviousness and well known in the art" assertion. The recitations of claim 3 are unique to the instant invention. Thus, for at least these additional reasons, claim 3 is allowable.

In addition, in regard to claim 4, nothing was cited or found in Zey and Peoples either combined together or taken individually that teaches or suggests:

in response to the caller replying to the second service announcement and entering a plurality of conference call telephone numbers to be called, invoking a conference call between the computer, the caller, and each of the plurality of telephone numbers, and in response to the conference call connections being made or terminated, dropping the computer off line, thereby enabling the caller to communicate with the plurality of telephone numbers via the home plan at the home plan rate

(claim 4, lines 2-8). In contrast to what is recited in claim 4, Peoples merely shows the initiation of a "conference call to other parties" (Peoples, column 1, line 67 to column 2, line

2). Nothing was cited or found in Peoples that teaches or suggests each recitation included in claim 4. Furthermore, as discussed above in regard to claim 1, nothing was cited or found in Peoples that renders obvious the recitations included in claim 1, from which claim 4 depends. Thus, for at least these additional reasons, claim 4 is allowable.

In addition, in regard to claim 5, the Office Action presented an incomplete site for the reference to Peoples (see Office Action, page 5, line 3). Applicant's representative notes that Peoples discusses "call-forwarding" at column 1, lines 30-33. Furthermore, Peoples does not disclose entering a call-forward command, "in response to the caller replying to the first service announcement" as recited in claim 5, line 2. Thus, nothing was cited or found in Zey and Peoples either combined together or taken individually that teaches or suggests each recitation included in claim 5. For at least these additional reasons, claim 5 is allowable.

In addition, claims 8 and 9 were rejected based on the assertion that their recitations are "obvious" (Office Action, page 5, lines 9-13). The Applicant respectfully traverses this assertion and demands that documentary evidence (i.e., either a patent or non-patent reference or an affidavit from the Examiner) be produced in support of the assertion of obviousness. The recitations included in claims 8 and 9 are unique to the instant invention. Thus, for at least these additional reasons, claims 8 and 9 are allowable.

In addition, claim 16 was "rejected for the same reasons as discussed above with respect to claim 2" (Office Action, page 4, lines 4-5). However, claim 16 has a scope different than claim 2. Nothing was cited or found in Zey and Peoples either combined together or taken individually that teaches or suggests "disconnecting the computer from the call" (claim 14, line 16) and "invoking an outbound call to the destination number on another line in response to the telephone being serviced by more than one line" (claim 16, lines 5 and 6). Therefore, claim 16 is allowable for at least these additional reasons.

Thus, claims 3-5, 8, 9 and 16 are allowable for these additional reasons.

Examiner's Response to Arguments

In item 4 on page 6 of the Office Action, it was asserted that it "is unclear what is the ""misquoted recitation"" (Office Action, page 6, lines 4-5). Claim 1 recites: "in response to the destination number being answered, dropping the computer off line, thereby enabling the caller to communicate with the destination number via the home plan at the home plan rate" (claim 1, lines 13-16). This recitation was characterized in the Office Action as equal to: "in response to the destination number being answered, **dropping the line**" (Office Action, page 2, lines 2-4, emphasis added). Dropping the line is different from dropping the computer off line. Thus, the recitation of claim 1 was misquoted.

In item 4 on page 6 of the Office Action, it was alleged that Zey meets "all the limitations recited in claim 1 with the exception of the use of a 'computer'" (Office Action, page 6, lines 17 to page 7, line 3); and in item 4 on page 7 of the Office Action, it was alleged that Peoples corrects any deficiencies not disclosed by Zey; however, for all of the reasons discussed above, Zey and Peoples either combined together or taken individually fail to teach or suggest each recitation of claim 1.

In item 4 on page 6 of the Office Action, it was alleged that "the Examiner is not required to submit . . . evidence for . . . limitations . . . considered obvious" (Office Action, page 7, lines 4-5). However, the Applicant repeats the traversal stated in Applicant's response filed on February 12, 2007 and demands that documentary evidence (i.e., either a patent or non-patent reference or an affidavit from the Examiner) be produced in support of the "obviousness and well known in the art" assertion, pursuant to MPEP § 2144.03 and 37 C.F.R. § 1.104(d)(2). The recitations of claim 3 are unique to the instant invention. Thus, for at least these additional reasons, claim 3 is allowable.

### CONCLUSION

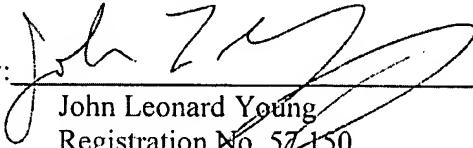
For all of the above reasons, claims 1-17 are patentable over the references Zey and Peoples cited in the Office Action, taken individually or in combination.

In view of the foregoing request for reconsideration, it is respectfully submitted that the application is in condition for allowance. Accordingly, it is respectfully requested that the finality of this application be withdrawn and this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicant's attorneys would be advantageous to the disposition of this case, the Examiner is cordially requested to telephone the undersigned.

If there are any additional charges or fees due in connection with this response or otherwise in connection with this application, Applicant's attorney hereby authorizes that such charges and fees be charged to Deposit Account 06-1130.

Respectfully submitted,

By:

  
John Leonard Young  
Registration No. 52,150  
CANTOR COLBURN LLP  
55 Griffin Road South  
Bloomfield, CT 06002  
Telephone (404) 607-9991  
Facsimile (404) 607-9981  
Customer No. 36192

Date: October 31, 2007